delta-6 desaturase.

Group II comprises a single claim, Claim 2, and Group III comprises Claim 3 as its sole member. Applicants traverse the requirement of restriction with respect to the claims of these two groups, and respectfully request reconsideration of the grouping of Claims 2 and 3 as separate inventions from Group I, and that Claims 2 and 3 be reclassified as belonging to Group I.

Applicants cancel herewith Claims 13 to 18 as being drawn to non-elected inventions.

Claims 2 and 3 are both dependent from Claim 1. They require, in addition to the limitations recited in Claim 1 of a first DNA construct having a delta-six desaturase, a second construct having, respectively, a delta-12 desaturase (Claim 2) and delta-15 desature (Claim 3).

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent, or distinct.

Further, if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the Office Action, it is asserted that Claims 2 and 3 define inventions "drawn to distinct methods which differ in the method steps and components, and result in different products".

Applicants note that the preamble of Claim 1 describes a method for the production of stearidonic acid in an oil seed. The additional constructs of Claims 2 and 3 do not alter this preamble. Rather, in certain applications of the invention of Group I, the methods of Claims 2 and 3 may be a preferred mode of accomplishing invention. The fact that the dependent claims add a limitation to Claim 1 does not mean that the claimed products differ, or that the methods are distinct.

Since a search of the art with respect to the Claims of Group I will necessarily consider any method for production of stearidonic acid in an oil seed using the first DNA construct limitation of Claim 1, there can be no burden for the Examiner to consider methods involving the first construct and another construct in the production of the same stearidonic acid, since such methods would be relevant to consideration of the Group I invention.

For the above reasons, Applicants submit that there is no burden in examining the claims of Groups I-III together, and respectfully request withdrawal of the restriction between these inventions.

CONCLUSION

If, in the view of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (650) 328-4400

Respectfully submitted,

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